



General Assembly

Amendment

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LCO No. 5754

SB0071005754SD0

Offered by:

SEN. PRAGUE, 19th Dist.

REP. RYAN, 139th Dist.

To: Subst. Senate Bill No. 710

File No. 24

Cal. No. 102

**"AN ACT CONCERNING UPDATES TO THE FAMILY AND
MEDICAL LEAVE ACT."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 31-51ll of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective from passage*):

5 (a) (1) Subject to section 31-51mm, as amended by this act, an
6 eligible employee shall be entitled to a total of sixteen workweeks of
7 leave during any twenty-four-month period, such twenty-four-month
8 period to be determined utilizing any one of the following methods:
9 (A) Consecutive calendar years; (B) any fixed twenty-four-month
10 period, such as two consecutive fiscal years or a twenty-four-month
11 period measured forward from an employee's first date of
12 employment; (C) a twenty-four-month period measured forward from
13 an employee's first day of leave taken under sections 31-51kk to 31-
14 51qq, inclusive, as amended by this act; or (D) a rolling twenty-four-

15 month period measured backward from an employee's first day of
16 leave taken under sections 31-51kk to 31-51qq, inclusive, as amended
17 by this act.

18 (2) Leave under this subsection may be taken for one or more of the
19 following reasons:

20 (A) Upon the birth of a son or daughter of the employee;

21 (B) Upon the placement of a son or daughter with the employee for
22 adoption or foster care;

23 (C) In order to care for the spouse, or a son, daughter or parent of
24 the employee, if such spouse, son, daughter or parent has a serious
25 health condition;

26 (D) Because of a serious health condition of the employee; or

27 (E) In order to serve as an organ or bone marrow donor.

28 (b) Entitlement to leave under subparagraph (A) or (B) of
29 subdivision (2) of subsection (a) of this section may accrue prior to the
30 birth or placement of a son or daughter when such leave is required
31 because of such impending birth or placement.

32 (c) (1) Leave under subparagraph (A) or (B) of subdivision (2) of
33 subsection (a) of this section for the birth or placement of a son or
34 daughter may not be taken by an employee intermittently or on a
35 reduced leave schedule unless the employee and the employer agree
36 otherwise. Subject to subdivision (2) of this subsection concerning an
37 alternative position, subdivision (2) of subsection (f) of this section
38 concerning the duties of the employee and subdivision (5) of
39 subsection (b) of section 31-51mm, as amended by this act, concerning
40 sufficient certification, leave under subparagraph (C) or (D) of
41 subdivision (2) of subsection (a) or under subsection (i) of this section
42 for a serious health condition may be taken intermittently or on a
43 reduced leave schedule when medically necessary. The taking of leave
44 intermittently or on a reduced leave schedule pursuant to this

45 subsection shall not result in a reduction of the total amount of leave to
46 which the employee is entitled under subsection (a) of this section
47 beyond the amount of leave actually taken.

48 (2) If an employee requests intermittent leave or leave on a reduced
49 leave schedule under subparagraph (C), (D) or (E) of subdivision (2) of
50 subsection (a) or under subsection (i) of this section that is foreseeable
51 based on planned medical treatment, the employer may require the
52 employee to transfer temporarily to an available alternative position
53 offered by the employer for which the employee is qualified and that
54 (A) has equivalent pay and benefits, and (B) better accommodates
55 recurring periods of leave than the regular employment position of the
56 employee, provided the exercise of this authority shall not conflict
57 with any provision of a collective bargaining agreement between such
58 employer and a labor organization which is the collective bargaining
59 representative of the unit of which the employee is a part.

60 (d) Except as provided in subsection (e) of this section, leave
61 granted under subsection (a) of this section may consist of unpaid
62 leave.

63 (e) (1) If an employer provides paid leave for fewer than sixteen
64 workweeks, the additional weeks of leave necessary to attain the
65 sixteen workweeks of leave required under sections 5-248a, as
66 amended by this act, and 31-51kk to 31-51qq, inclusive, as amended by
67 this act, may be provided without compensation.

68 (2) (A) An eligible employee may elect, or an employer may require
69 the employee, to substitute any of the accrued paid vacation leave,
70 personal leave or family leave of the employee for leave provided
71 under subparagraph (A), (B) or (C) of subdivision (2) of subsection (a)
72 of this section for any part of [this] the sixteen-week period of such
73 leave under said subsection or under subsection (i) of this section for
74 any part of the twenty-six-week period of such leave.

75 (B) An eligible employee may elect, or an employer may require the
76 employee, to substitute any of the accrued paid vacation leave,

77 personal leave, or medical or sick leave of the employee for leave
78 provided under subparagraph (C), (D) or (E) of subdivision (2) of
79 subsection (a) of this section for any part of the sixteen-week period of
80 such leave under said subsection or under subsection (i) of this section
81 for any part of the twenty-six-week period of leave, except that
82 nothing in section 5-248a, as amended by this act, or sections 31-51kk
83 to 31-51qq, inclusive, as amended by this act, shall require an employer
84 to provide paid sick leave or paid medical leave in any situation in
85 which such employer would not normally provide any such paid
86 leave.

87 (f) (1) In any case in which the necessity for leave under
88 subparagraph (A) or (B) of subdivision (2) of subsection (a) of this
89 section is foreseeable based on an expected birth or placement of a son
90 or daughter, the employee shall provide the employer with not less
91 than thirty days' notice, before the date of the leave is to begin, of the
92 employee's intention to take leave under said subparagraph (A) or (B),
93 except that if the date of the birth or placement of a son or daughter
94 requires leave to begin in less than thirty days, the employee shall
95 provide such notice as is practicable.

96 (2) In any case in which the necessity for leave under subparagraph
97 (C), (D) or (E) of subdivision (2) of subsection (a) or under subsection
98 (i) of this section is foreseeable based on planned medical treatment,
99 the employee (A) shall make a reasonable effort to schedule the
100 treatment so as not to disrupt unduly the operations of the employer,
101 subject to the approval of the health care provider of the employee or
102 the health care provider of the son, daughter, spouse or parent of the
103 employee, as appropriate; and (B) shall provide the employer with not
104 less than thirty days' notice, before the date the leave is to begin, of the
105 employee's intention to take leave under said subparagraph (C), (D) or
106 (E), except that if the date of the treatment requires leave to begin in
107 less than thirty days, the employee shall provide such notice as is
108 practicable.

109 (g) In any case in which a husband and wife entitled to leave under

110 subsection (a) of this section are employed by the same employer, the
111 aggregate number of workweeks of leave to which both may be
112 entitled may be limited to sixteen workweeks during any twenty-four-
113 month period, if such leave is taken: (1) Under subparagraph (A) or (B)
114 of subdivision (2) of subsection (a) of this section; or (2) to care for a
115 sick parent under subparagraph (C) of said subdivision. In any case in
116 which a husband and wife entitled to leave under subsection (i) of this
117 section are employed by the same employer, the aggregate number of
118 workweeks of leave to which both may be entitled may be limited to
119 twenty-six workweeks during any twelve-month period.

120 (h) Unpaid leave taken pursuant to sections 5-248a, as amended by
121 this act, and 31-51kk to 31-51qq, inclusive, as amended by this act, shall
122 not be construed to affect an employee's qualification for exemption
123 under chapter 558.

124 (i) Subject to section 31-51mm, as amended by this act, an eligible
125 employee who is the spouse, son or daughter, parent, or next of kin of
126 a current member of the armed forces, as defined in section 27-103,
127 who is undergoing medical treatment, recuperation or therapy, is
128 otherwise in outpatient status or is on the temporary disability retired
129 list for a serious injury or illness incurred in the line of duty, shall be
130 entitled to a one-time benefit of twenty-six workweeks of leave during
131 any twelve-month period for each armed forces member per serious
132 injury or illness incurred in the line of duty. Such twelve-month period
133 shall commence on an employee's first day of leave taken to care for a
134 covered armed forces member and end on the date twelve months
135 after such first day of leave. For the purposes of this subsection, (1)
136 "next of kin" means the armed forces member's nearest blood relative,
137 other than the covered armed forces member's spouse, parent, son or
138 daughter, in the following order of priority: Blood relatives who have
139 been granted legal custody of the armed forces member by court
140 decree or statutory provisions, brothers and sisters, grandparents,
141 aunts and uncles, and first cousins, unless the covered armed forces
142 member has specifically designated in writing another blood relative
143 as his or her nearest blood relative for purposes of military caregiver

144 leave, in which case the designated individual shall be deemed to be
145 the covered armed forces member's next of kin; and (2) "son or
146 daughter" means a biological, adopted, foster child, stepchild, legal
147 ward or a child for whom the eligible employee or armed forces
148 member stood in loco parentis and who is any age.

149 (j) Leave taken pursuant to sections 31-51kk to 31-51qq, inclusive, as
150 amended by this act, shall not run concurrent with the provisions of
151 section 31-313.

152 [(i)] (k) Notwithstanding the provisions of sections 5-248a, as
153 amended by this act, and 31-51kk to 31-51qq, inclusive, as amended by
154 this act, all further rights granted by federal law shall remain in effect.

155 Sec. 2. Section 31-51mm of the general statutes is repealed and the
156 following is substituted in lieu thereof (*Effective from passage*):

157 (a) An employer may require that request for leave based on a
158 serious health condition in subparagraph (C) or (D) of subdivision (2)
159 of subsection (a) of section 31-51ll, as amended by this act, or leave
160 based on subsection (i) of section 31-51ll, as amended by this act, be
161 supported by a certification issued by the health care provider of the
162 eligible employee or of the son, daughter, spouse, [or] parent or next of
163 kin of the employee, as appropriate. The employee shall provide, in a
164 timely manner, a copy of such certification to the employer.

165 (b) Certification provided under subsection (a) of this section shall
166 be sufficient if it states:

167 (1) The date on which the serious health condition commenced;

168 (2) The probable duration of the condition;

169 (3) The appropriate medical facts within the knowledge of the
170 health care provider regarding the condition;

171 (4) (A) For purposes of leave under subparagraph (C) of subdivision
172 (2) of subsection (a) of section 31-51ll, as amended by this act, a

173 statement that the eligible employee is needed to care for the son,
174 daughter, spouse or parent and an estimate of the amount of time that
175 such employee needs to care for the son, daughter, spouse, [or] parent
176 or next of kin; and (B) for purposes of leave under subparagraph (D) of
177 subdivision (2) of subsection (a) of section 31-51ll, as amended by this
178 act, a statement that the employee is unable to perform the functions of
179 the position of the employee;

180 (5) In the case of certification for intermittent leave or leave on a
181 reduced leave schedule for planned medical treatment, the dates on
182 which such treatment is expected to be given and the duration of such
183 treatment;

184 (6) In the case of certification for intermittent leave or leave on a
185 reduced leave schedule under subparagraph (D) of subdivision (2) of
186 subsection (a) of section 31-51ll, as amended by this act, a statement of
187 the medical necessity of the intermittent leave or leave on a reduced
188 leave schedule, and the expected duration of the intermittent leave or
189 reduced leave schedule; [and]

190 (7) In the case of certification for intermittent leave or leave on a
191 reduced leave schedule under subparagraph (C) of subdivision (2) of
192 subsection (a) of section 31-51ll, as amended by this act, a statement
193 that the employee's intermittent leave or leave on a reduced leave
194 schedule is necessary for the care of the son, daughter, parent or
195 spouse who has a serious health condition, or will assist in their
196 recovery, and the expected duration and schedule of the intermittent
197 leave or reduced leave schedule; and

198 (8) In the case of certification for intermittent leave or leave on a
199 reduced leave schedule under subsection (i) of section 31-51ll, as
200 amended by this act, a statement that the employee's intermittent leave
201 or leave on a reduced leave schedule is necessary for the care of the
202 spouse, son or daughter, parent or next of kin who is a current member
203 of the armed forces, as defined in section 27-103, who is undergoing
204 medical treatment, recuperation or therapy, is otherwise in outpatient

205 status or is on the temporary disability retired list, for a serious injury
206 or illness incurred in the line of duty, and the expected duration and
207 schedule of the intermittent leave or reduced leave schedule. For the
208 purposes of this subsection, "son or daughter" and "next of kin" shall
209 have the same meaning as in subsection (i) of section 1 of section 31-
210 51ll, as amended by this act.

211 (c) (1) In any case in which the employer has reason to doubt the
212 validity of the certification provided under subsection (a) of this
213 section for leave under subparagraph (C) or (D) of subdivision (2) of
214 subsection (a) or under subsection (i) of section 31-51ll, as amended by
215 this act, the employer may require, at the expense of the employer, that
216 the eligible employee obtain the opinion of a second health care
217 provider designated or approved by the employer concerning any
218 information certified under subsection (b) of this section for such leave.

219 (2) A health care provider designated or approved under
220 subdivision (1) of this subsection shall not be employed on a regular
221 basis by the employer.

222 (d) (1) In any case in which the second opinion described in
223 subsection (c) of this section differs from the opinion in the original
224 certification provided under subsection (a) of this section, the
225 employer may require, at the expense of the employer, that the
226 employee obtain the opinion of a third health care provider designated
227 or approved jointly by the employer and the employee concerning the
228 information certified under subsection (b) of this section.

229 (2) The opinion of the third health care provider concerning the
230 information certified under subsection (b) of this section shall be
231 considered to be final and shall be binding on the employer and the
232 employee.

233 (e) The employer may require that the eligible employee obtain
234 subsequent recertifications on a reasonable basis, provided the
235 standards for determining what constitutes a reasonable basis for
236 recertification may be governed by a collective bargaining agreement

237 between such employer and a labor organization which is the
238 collective bargaining representative of the unit of which the worker is
239 a part if such a collective bargaining agreement is in effect. Unless
240 otherwise required by the employee's health care provider, the
241 employer may not require recertification more than once during a
242 thirty-day period and, in any case, may not unreasonably require
243 recertification. The employer shall pay for any recertification that is not
244 covered by the employee's health insurance.

245 Sec. 3. Section 5-248a of the general statutes is repealed and the
246 following is substituted in lieu thereof (*Effective from passage*):

247 (a) For purposes of this section, "child" means a biological, adopted
248 or foster child, stepchild, child of whom a person has legal
249 guardianship or custody, or, in the alternative, a child of a person
250 standing in loco parentis, who is (1) under eighteen years of age, or (2)
251 eighteen years of age or older and incapable of self-care because of a
252 mental or physical disability. Each permanent employee, as defined in
253 subdivision (20) of section 5-196, shall be entitled to a family leave of
254 absence upon the birth or adoption of a child of such employee, or
255 upon the serious illness of a child, spouse or parent of such employee;
256 and a medical leave of absence upon the serious illness of such
257 employee or in order for such employee to serve as an organ or bone
258 marrow donor. The total amount of time that an employee is entitled
259 to for leaves of absence pursuant to this section shall be twenty-four
260 weeks within any two-year period. Any such leave of absence shall be
261 without pay. Upon the expiration of any such leave of absence, the
262 employee shall be entitled (A) to return to the employee's original job
263 from which the leave of absence was provided or, if not available, to an
264 equivalent position with equivalent pay, except that in the case of a
265 medical leave, if the employee is medically unable to perform the
266 employee's original job upon the expiration of such leave, the
267 Personnel Division of the Department of Administrative Services shall
268 endeavor to find other suitable work for such employee in state
269 service, and (B) to all accumulated seniority, retirement, fringe benefit
270 and other service credits the employee had at the commencement of

271 such leave. Such service credits shall not accrue during the period of
272 the leave of absence.

273 (b) The leave of absence benefits granted by this section shall be in
274 addition to any other paid leave benefits and benefits provided under
275 subdivision (7) of subsection (a) of section 46a-60 which are otherwise
276 available to the employee.

277 (c) Any permanent employee who requests a medical leave of
278 absence due to the employee's serious illness or a family leave of
279 absence due to the serious illness of a child, spouse or parent pursuant
280 to subsection (a) of this section or a military caregiver leave of absence
281 pursuant to subsection (g) of this section shall be required by the
282 employee's appointing authority, prior to the inception of such leave,
283 to provide sufficient written certification from the physician of such
284 employee, child, spouse, [or] parent or next of kin of the employee, as
285 appropriate, of the nature of such illness and its probable duration. For
286 the purposes of this section, "serious illness" means an illness, injury,
287 impairment or physical or mental condition that involves (1) inpatient
288 care in a hospital, hospice or residential care facility, or (2) continuing
289 treatment or continuing supervision by a health care provider.

290 (d) Any permanent employee who requests a medical leave of
291 absence in order to serve as an organ or bone marrow donor pursuant
292 to subsection (a) of this section shall be required by the employee's
293 appointing authority, prior to the inception of such leave, to provide
294 sufficient written certification from the physician of such employee of
295 the proposed organ or bone marrow donation and the probable
296 duration of the employee's recovery period from such donation.

297 (e) Any permanent employee who requests a family leave of
298 absence pursuant to subsection (a) of this section or a military
299 caregiver leave of absence pursuant to subsection (g) of this section
300 shall submit to the employee's appointing authority, prior to the
301 inception of such leave, a signed statement of the employee's intent to
302 return to the employee's position in state service upon the termination

303 of such leave.

304 (f) Notwithstanding the provisions of subsection (b) of section 38a-
305 554, the state shall pay for the continuation of health insurance benefits
306 for the employee during any leave of absence taken pursuant to this
307 section. In order to continue any other health insurance coverages
308 during such leave, the employee shall contribute that portion of the
309 premium the employee would have been required to contribute had
310 the employee remained an active employee during the leave period.

311 (g) Each permanent employee, as defined in subdivision (20) of
312 section 5-196, who is the spouse, son or daughter, parent or next of kin
313 of a current member of the armed forces, as defined in section 27-103,
314 who is undergoing medical treatment, recuperation or therapy, is
315 otherwise in outpatient status or is on the temporary disability retired
316 list for a serious injury or illness incurred in the line of duty, shall be
317 entitled to a one-time benefit of twenty-six workweeks of leave within
318 a single two-year period for each armed forces member per serious
319 injury or illness incurred in the line of duty.

320 (h) For purposes of subsection (g) of this section, (1) "next of kin"
321 means the armed forces member's nearest blood relative, other than
322 the covered armed forces member's spouse, parent, son or daughter, in
323 the following order of priority: Blood relatives who have been granted
324 legal custody of the armed forces member by court decree or statutory
325 provisions, brothers and sisters, grandparents, aunts and uncles, and
326 first cousins, unless the covered armed forces member has specifically
327 designated in writing another blood relative as his or her nearest blood
328 relative for purposes of military caregiver leave, in which case the
329 designated individual shall be deemed to be the covered armed forces
330 member's next of kin; and (2) "son or daughter" means a biological,
331 adopted, foster child, stepchild, legal ward or a child for whom the
332 eligible employee or armed forces member stood in loco parentis and
333 who is any age."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	31-51ll
Sec. 2	<i>from passage</i>	31-51mm
Sec. 3	<i>from passage</i>	5-248a